

**REMARKS**

The Office Action dated December 11, 2003 has been reviewed and carefully considered. Claims 1-10 remain pending, of which the independent claims are 1, 4, 7 and 10. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Claims 1-10 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,591,382 to Molloy et al. ("Molloy") in view of U.S. Patent No. 6,072,990 to Agrawal et al. ("Agrawal").

Claim 1 recites, "A receiver . . . comprising: . . .

c) comparison means for comparing received erroneous data frames with corresponding corrected data frames for estimating a minimum error rate involved in the transmission of the received data frames,

d) analysis means for analyzing incorrigible erroneous received data frames for estimating a maximum error rate involved in the transmission of the received data frames . . ."

Steps c) and d) are discussed in the specification at page 6, lines 26-28 and at page 7, lines 4-7, respectively, and in other portions of the specification.

Advantageous aspects of the invention are also discussed in the specification (e.g., page 2, lines 14-22; page 3, lines 14-16, 25-27).

The applicant submits that the above-quoted limitations of claim 1 are not disclosed or suggested by either of the applied prior art references, and would not be featured by any embodiment that could be construed as an obvious modification of one of the references based upon the other reference.

The Molloy reference relates to trading off the overhead of a more robust error correcting code in wireless communication for signal quality. A “Packet Error test (PER)” is mentioned (col. 9, line 35) as one of three separate quality estimation methods. If the average packet error rate is observed to be too high, the more robust code is then used. Either the base station or the mobile station may monitor the signal quality for this purpose (col. 12, lines 53-55).

The Agrawal reference trades off signal quality against both transmit power level and the choice of forward error-correcting code. Agrawal observes an average word error rate (WER). When a predetermined WER range is exceeded by the observed rate, the new power level and code are calculated and transmitted by the receiver to the transmitter.

Item 3 of the Office Action suggests that Molloy be modified in view of Agrawal to send the Molloy determined average packet error rate from the Molloy receiver to the Molloy transmitter, the transmitter then changing over to the code of appropriate robustness. Item 3 of the Office Action regards the Molloy average packet error rate to correspond to “maximum error rate” of claim 1. No reasoning for this latter proposition is advanced. It is perhaps being suggested that the Molloy average packet error rate does not account for those packets successfully corrected by forward error-correcting (FEC), but this appears from the reference to be mere speculation. Item 3 then asks us to imagine that the “minimum error rate” of claim 1 is likewise featured in Molloy/Agrawal. Certain parts of the patent references received from the Patent Office are marked up or highlighted to suggest that the “minimum error rate” is disclosed, but item 3 does not go so far as to actually voice that proposition. A review of those

highlighted portions and of the passages cited in item 3 fails to unearth any disclosure or suggestion of a “minimum error rate” such as that of claim 1.

Moreover, there is no suggestion in either reference of the “comparing” of step c) of claim 1 of the present invention, nor of the “analyzing” of step d) of claim 1 of the present invention. Nor would it have been obvious for Molloy/Agrawal to feature these claim 1 limitations. The only motivation cited by item 3 is to relocate decision-making at the transmitter, which might relate to the joining of Molloy and Agrawal, but does not even begin to suggest the claim 1 limitations discussed in this paragraph.

In particular, the applied combination fails to disclose, suggest or feature,  
“A receiver . . . comprising: . . .

c) comparison means for comparing received erroneous data frames with corresponding corrected data frames for estimating a minimum error rate involved in the transmission of the received data frames,

d) analysis means for analyzing incorrigible erroneous received data frames for estimating a maximum error rate involved in the transmission of the received data frames . . .”

For at least all of the above reasons, the applied combination fails to render obvious the invention as recited in claim 1. Reconsideration and withdrawal of the rejection is respectfully requested.

As to claims 4, 7 and 10, they each recite the same above quoted, underlined claim language, except that some of the claims relocate the word “received” in step d) to immediately follow the word “analyzing.” Accordingly, each of claims 4, 7

and 10 is deemed to be patentable over the applied references for at least the same reasons set forth above with regard to claim 1.

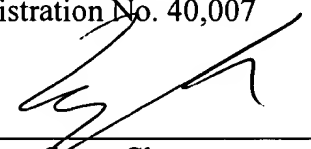
As to the remaining claims, each depends from a base claim which has been shown to be patentable and is likewise deemed to be patentable at least due to its dependency.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date: 3/90/04

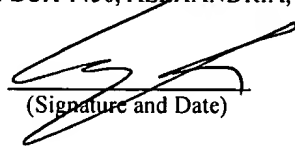
  
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